

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

CONOR BRIAN FITZPATRICK,

Defendant.

No. 1:23-mj-67

MOTION FOR ALTERNATIVE VICTIM NOTIFICATION

To further its ongoing victim-notification efforts, the government requests that the Court authorize it to employ the alternate victim notification procedures described below pursuant to 18 U.S.C. § 3771(d)(2). In particular, the government requests authorization to publish a press release and to add case-related information to a corresponding website for the purposes of notifying the large volume of victims in the above-captioned matter on the grounds that it is impracticable to do so on an individual basis, as prescribed by 18 U.S.C. § 3771(a).

The Crimes Victims' Rights Act ("the Act"), 18 U.S.C. § 3771, provides certain rights to victims in federal criminal proceedings. Among them is the right to "reasonable, accurate, and timely notice" of public court proceedings. *See* 18 U.S.C. § 3771(a). The Act also requires "[o]fficers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation and prosecution of crime make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection [3771](a)," 18 U.S.C. § 3771(c)(1), and it instructs the Court to "ensure that the crime victim is afforded" those rights. 18 U.S.C. § 3771(b). The Act defines a crime victim as "a

person directly and proximately harmed as a result of the commission of a Federal offense . . .”

18 U.S.C. § 3771(e).

Relevant here, in cases involving multiple victims, the Court has discretion to adopt procedures to accord victim rights without unduly interfering with the criminal proceedings:

In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

18 U.S.C. § 3771(d)(2). So long as the procedures employed are reasonable to effectuate the goals of the Act, and they do not unduly complicate or prolong the proceedings, there are no limitations on the alternate procedures that the Court may fashion. *Id.*

In the above-captioned matter, on or around March 15, 2023, Connor Brian Fitzpatrick was charged via criminal complaint for his alleged role in operating the criminal cybercrime forum, BreachForums, from in or around March 2022 until on or about March 15, 2023. BreachForums operated as a popular marketplace for cybercriminals to post solicitations concerning the sale of hacked or stolen data, exchange direct private messages with prospective buyers and sellers, buy access to certain hacked or stolen data that the platform itself controls and distributes, and arrange other services related to the illicit transfer of stolen data and contraband.

Some of the access devices sold on the platform included bank account information, social security numbers and other personal identifying information (“PII”), and account login information for compromised online accounts, such as usernames and passwords to access online accounts with service providers and merchants. Based on the training and experience of the law enforcement officers in this case, we believe the sellers in these marketplaces are typically malicious cyber actors and/or their co-conspirators seeking to monetize data that they obtained

through unlawful network intrusions. Further, buyers in these marketplaces are typically criminal actors who purchase confidential business, financial, or personal data to further other fraud schemes.

As of January 11, 2023, just one section of BreachForums — the “Official” database section — purported to contain 879 datasets, consisting of over 14 billion individual records. These databases include a wide variety of both U.S. and foreign companies, organizations, and government agencies. Based on a review of publicly available posts, Fitzpatrick allegedly personally confirmed when leaked databases were added to the Official section in at least 106 instances.

While federal law enforcement are attempting to account for the known victims in this case, the volume of data and the nature of the forum — which enabled users to obtain access to hacked or stolen data through both public and private means — makes this a difficult, if not impossible task. Accordingly, it would be impracticable to attempt to identify all of the actual victims in this case, obtain the current contact information of each of these individuals, and then directly notify each of them. Also, attempting to do so would unquestionably prolong these proceedings.

Therefore, given these considerations, the US Attorney’s Office for the Eastern District of Virginia intends to issue a press release alerting potential victims to this case and directing them to the Victim-Witness website for the Eastern District of Virginia (<https://www.justice.gov/usao-edva/victim-witness>). The government will also add case-related information to the Victim-Witness website so that any victims who do respond to the press release will be apprised of the case status.

Defense counsel in this matter have informed undersigned counsel that the defendant does not object to this motion.

Based upon the foregoing, the government requests that the Court grant its request for alternate victim notification.

Respectfully submitted,

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